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portation of the goods, and that such neglect caused the shipper the loss complained of.

[Ed. Note.—For other cases, see *Carriers*, Cent. Dig. §§ 436-438; Dec. Dig. 103.* 2 Va.-W. Va. Enc. Dig. 715.]

4. Carriers (§ 104*)—Transportation of Freight—Unreasonable Delay—Evidence—Question for Jury.—In an action against a carrier for delay in the transportation of freight, evidence held to sustain a verdict of unreasonable delay in the transportation and delivery of the freight.

[Ed. Note.—For other cases, see *Carriers*, Cent. Dig. §§ 439-447, 459-461; Dec. Dig. § 104.* 3 Va.-W. Va. Enc. Dig. 717.]

Error to Circuit Court of City of Norfolk.

Action by the Norfolk Truckers' Exchange, Incorporated, against the Norfolk Southern Railroad Company. There was a judgment for defendant rendered at the second trial, after the setting aside of a verdict for plaintiff, and it brings error. Reversed, and judgment entered on first verdict.

J. Edward Cole, of Norfolk, for plaintiff in error.

Jas. G. Martin, of Norfolk, for defendant in error.

LAKE BOWLING ALLEY, Inc., *v.* CITY OF RICHMOND.

June 11, 1914.

[82 S. E. 97.]

1. Municipal Corporations (§ 402*)—Public Improvements—Damages—Proceedings for Assessment.—A notice by an assessor appointed by the council of a city to ascertain the damages to abutting owners from a change in the grade of a street, as required by Acts 1908, c. 217, is to be served as prescribed by the act, and not as prescribed by Code 1904, §§ 3219-3235.

[Ed. Note.—For other cases, see *Municipal Corporations*, Cent. Dig. §§ 969-981; Dec. Dig. § 402.* 12 Va.-W. Va. Enc. Dig. 883.]

2. Municipal Corporations (§ 402*)—Public Improvements—Damages—Proceedings for Assessment.—Where the president of a corporation, after service of notice upon its agent by the assessor appointed by the council of a city to ascertain the damages to abutting owners by a change in the grade of a street, wrote the assessor, "I apologize for not appearing on yesterday; I made a mistake in the time," etc., it was an acknowledgment of the service of the notice, and amounted to an appearance by the corporation, and hence was a waiver of all questions of the service of process.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

[Ed. Note.—For other cases, see Municipal Corporations, Cent. Dig. §§ 969-981; Dec. Dig. § 402.* 12 Va.-W. Va. Enc. Dig. 883.]

3. Municipal Corporations (§ 402*)—Public Improvements—Assessment of Damages—Harmless Error.—That the assessor appointed by the council of a city to ascertain the damages to abutting owners by a change of the grade of a street, as required by Acts 1908, c. 217, filed his report with the council sooner than he should have under the act, or before the property owner's right of appeal to the corporation or hustings court had expired, was not prejudicial to an owner who did not seek an appeal, and was not deprived of that right by such irregularity.

[Ed. Note.—For other cases, see Municipal Corporations, Cent. Dig. §§ 969-981; Dec. Dig. § 402.* 12 Va.-W. Va. Enc. Dig. 883.]

4. Municipal Corporations (§ 402*)—Public Improvements—Damages—Proceedings for Assessment.—Under Acts 1908, c. 217, providing that mode of ascertainment of damages to abutting owners, where any city or town causes injury by changing the grade of a street, the council of a city could not, six months after the approval and confirmation of the assessor's award, and more than six months after the property owner's right of appeal therefrom had expired, reopen the assessment proceedings so as to allow a property owner to be heard, since the proceedings had become final and passed beyond the control of the council.

[Ed. Note.—For other cases, see Municipal Corporations, Cent. Dig. §§ 969-981; Dec. Dig. § 402.* 12 Va.-W. Va. Enc. Dig. 883.]

5. Jury (§ 19*)—Right to Jury Trial—Public Improvements—Damages—Proceedings for Assessment—Statute—Constitutionality.—Acts 1908, c. 217, authorizing the council of a city to appoint an officer or committee to ascertain damages to abutting owners by a change in the grade of streets, is not unconstitutional because not providing for a jury to ascertain the damages.

[Ed. Note.—For other cases, see Jury, Cent. Dig. §§ 104-133; Dec. Dig. § 19.* 5 Va.-W. Va. Enc. Dig. 109.]

Error to Hustings Court of Richmond.

Action by the Lake Bowling Alley, Incorporated, against the City of Richmond. Judgment for defendant, and plaintiff brings error. Affirmed.

Isaac Diggs, of Richmond, for plaintiff in error.

H. R. Pollard, of Richmond, for defendant in error.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.